

# Exhibit 2



North America Europe Asia

1700 K Street, NW  
Washington, DC 20006  
T +1 202 282 5000  
F +1 202 282 5100

**ABBE DAVID LOWELL**  
Partner

November 15, 2023

**VIA E-MAIL**

Leo J. Wise  
Derek E. Hines  
Special Assistant United States Attorneys  
Office of the Special Counsel  
1313 North Market Street  
Wilmington, DE 19801

**Re: United States v. Robert Hunter Biden, Case No. 23-cr-00061-MN (D. Del.)**

Dear Counsel:

We write to supplement the discovery requests we made to your Office on October 8, 2023. We respectfully request that you please seek and provide the following sets of information and documents:

1. All documents and records reflecting communications from January 20, 2017 to the present (the "Relevant Time Period") to, from, between, or among Donald J. Trump, William P. Barr, Geoffrey Berman, Scott W. Brady, Richard Donoghue, or Jeffrey A. Rosen relating to or discussing any formal or informal investigation or prosecution of Hunter Biden, or a request thereof.
2. All documents and records reflecting communications from the Relevant Time Period to, from, between, or among Donald J. Trump, William P. Barr, Geoffrey Berman, Scott W. Brady, Richard Donoghue, or Jeffrey A. Rosen and any Executive Branch official, political appointee, Department of Justice official, government agency, government official or staff person, cabinet member, or attorney for President Trump (personal or other) discussing or concerning Hunter Biden.

We think that you will understand the basis for these requests, but to be sure, we provide the following information.

The questions regarding who directed the investigation and made charging decisions in this case have been raised by Congress and the media. It has been reported and revealed in the now-public IRS

investigative files concerning this case (released by the House Ways and Means Committee<sup>1</sup>) that the Department of Justice (“DOJ”) in the last administration, under then Attorney General Bill Barr, opened a dedicated channel at the U.S. Attorney’s Office in Pittsburgh to receive information about Mr. Biden coming from then President Trump’s personal attorney, Rudolph Giuliani, and his associates.<sup>2</sup> That effort to review and vet any material was coordinated by then U.S. Attorneys Richard Donoghue (E.D.N.Y.) and Scott Brady in Pittsburgh (W.D.P.A.). When Mr. Donoghue was elevated to serve as Principal Associate Deputy Attorney General at the DOJ in July 2020 (and later, in December 2020, Deputy Attorney General under Mr. Rosen), IRS files reveal he further coordinated with the Pittsburgh Office *and* with the prosecution team in Delaware (and possibly other U.S. Attorney’s Offices), including issuing certain guidance regarding overt steps in the investigation of Mr. Biden.<sup>3</sup>

As Deputy Attorney General, Mr. Rosen interacted with teams investigating Mr. Biden in both Pittsburgh and Delaware. In the lead up to the 2020 election, IRS case files show certain investigative decisions were made “as a result of guidance provided” by, among others, “the Deputy Attorney General’s office.”<sup>4</sup> Testimony and investigative files provided by IRS “whistleblower” Gary Shapley also reveal that around the 2020 election, all aspects of the investigation “need[ed] to be vetted with USA Weiss and DAG Don[og]hue.”<sup>5</sup>

In addition, public reporting reveals certain instances that appear to suggest incessant, improper, and partisan pressure applied by then President Trump on Messrs. Barr, Berman, Brady, Donoghue, and Rosen in relation to investigations of Mr. Biden. For example, on December 27, 2020, Deputy Attorney General Donoghue took handwritten notes of a call with President Trump and Acting Attorney General Rosen, showing that Mr. Trump had instructed Mr. Rosen and Mr. Donoghue to “*figure out what to do with H[unter] Biden*” and indicating Mr. Trump had insisted that “*people will criticize the DOJ if he’s not investigated for real.*”<sup>6</sup> (These notes were released by the House Oversight Committee as part of the

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<sup>1</sup> Press Release, H. Comm. on Ways & Means, *Bombshell: Ways and Means Releases New Documents Revealing Hunter Biden Selling Access to White House, Investigators Blocked From Pursuing Evidence Related to President Biden* (Sept. 27, 2023), available at <https://waysandmeans.house.gov/updates/>.

<sup>2</sup> See, e.g., Letter From Asst. Att’y Gen. Stephen E. Boyd to Hon. Jerrold Nadler (Feb. 18, 2020) (available via <https://www.justice.gov/>) (“[T]he Deputy Attorney General has also assigned Scott Brady, the U.S. Attorney for the Western District of Pennsylvania, to assist in the receipt, processing, and preliminary analysis of new information provided by the public that may be relevant to matters relating to Ukraine.”); *Material From Giuliani Spurred a Separate Justice Dept. Pursuit of Hunter Biden*, N.Y. TIMES (Dec. 11, 2020), <https://www.nytimes.com/2020/12/11/us/politics/hunter-biden-justice-department-pittsburgh.html>.

<sup>3</sup> Gary Shapley Aff. 3, attach. 6 (IRS CI Memorandum of Conversation, Oct. 22, 2020), (“Pittsburgh read out on their investigation was ordered to be received by this prosecution team by the PDAG.”), available at [https://gop-waysandmeans.house.gov/wp-content/uploads/2023/09/T87-Shapley-3\\_Attachment-6\\_WMRedacted.pdf](https://gop-waysandmeans.house.gov/wp-content/uploads/2023/09/T87-Shapley-3_Attachment-6_WMRedacted.pdf).

<sup>4</sup> *Id.* attach. 9 (Sportsman Investigation, IRS-CI-WDCFO, undated) at 1, available at [https://gop-waysandmeans.house.gov/wp-content/uploads/2023/09/T90-Shapley-3\\_Attachment-9.pdf](https://gop-waysandmeans.house.gov/wp-content/uploads/2023/09/T90-Shapley-3_Attachment-9.pdf).

<sup>5</sup> Shapley Testimony at 129, Ex. 7 at 2, available at [https://www.documentcloud.org/documents/23866178-whistleblower-1-transcript\\_redacted#document/p129/a2390692](https://www.documentcloud.org/documents/23866178-whistleblower-1-transcript_redacted#document/p129/a2390692).

<sup>6</sup> Dec. 27, 2020 Handwritten Notes of Richard Donoghue Released by H. Oversight Comm. at 4 (emphasis added), available at [www.washingtonpost.com/context/read-richard-donoghue-s-handwritten-notes-on-trump-rosen-calls/cdc5a621-dfd1-440d-8dea-33a06ad753c8/](http://www.washingtonpost.com/context/read-richard-donoghue-s-handwritten-notes-on-trump-rosen-calls/cdc5a621-dfd1-440d-8dea-33a06ad753c8/); see also Transcribed Interview of Richard Donoghue at 56 (Oct. 1, 2021), H. Oversight Comm., available

January 6 investigation.) Additionally, former Attorney General Barr's latest book recalls an instance in mid-October 2020 in which President Trump called Mr. Barr and inquired about the investigation of Mr. Biden, which Mr. Barr says ended with Mr. Barr yelling at Mr. Trump, "*Dammit, Mr. President, I am not going to talk to you about Hunter Biden. Period!*"<sup>7</sup> These confirmations of communications give more than a mere appearance that former President Trump improperly and unrelentingly pressured DOJ to pursue an investigation and prosecution of Mr. Biden to advance President Trump's partisan ambitions. Further demonstrating that Mr. Trump is not above such misconduct, just last week he threatened that he would be within his rights to weaponize the Justice Department against his political enemies if he were reelected president.<sup>8</sup>

For his part, President Trump has made a plethora of concerning public statements regarding an investigation or possible prosecution of Mr. Biden, both while in office and since leaving, that further suggest improper partisan, political demands were at play, either expressly or implicitly. The former President has also incessantly called for law enforcement, the media, and the public to go after Mr. Biden. For example, he tweeted (@realDonaldTrump) or posted the following about Mr. Biden:

- D. Trump tweet on November 15, 2019: "*Democrats must apologize to USA: Ukrainian Foreign Minister Vadym Prystaiko said that 'United States Ambassador Gordon Sondland did NOT link financial military assistance to a request for Ukraine to open up an investigation into former V.P. Joe Biden & his son, Hunter Biden.....'*"
- D. Trump tweet on December 12, 2020: "*Why didn't Bill Barr reveal the truth to the public, before the Election, about Hunter Biden.*"
- D. Trump tweet on December 12, 2020: "*IF Biden gets in, nothing will happen to Hunter or Joe. Barr will do nothing, and the new group of partisan killers coming in will quickly kill it all. Same thing with Durham. We caught them cold, spying, treason & more (the hard part), but 'Justice' took too long. Will be DOA!*"
- D. Trump tweet on December 17, 2020: "*I have NOTHING to do with the potential prosecution of Hunter Biden, or the Biden family. It is just more Fake News. . . .*"<sup>9</sup>
- D. Trump Truth Social posts on June 20, 2023:
  - "*Wow! The corrupt Biden DOJ just cleared up hundreds of years of criminal liability by giving Hunter Biden a mere 'traffic ticket.' Our system is BROKEN!*"

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at <https://www.govinfo.gov/content/pkg/GPO-J6-TRANSCRIPT-CTRL0000034600/pdf/GPO-J6-TRANSCRIPT-CTRL0000034600.pdf>.

<sup>7</sup> Matt Zapotosky & Josh Dawsey, *Barr Calls Prospect of Trump Running For President Again 'Dismaying,' Says GOP Should 'Look Forward' to Others*, WASH. POST (Feb. 27, 2022), <https://www.washingtonpost.com/national-security/2022/02/27/barr-trump-2024/>.

<sup>8</sup> See Kathryn Watson, *Trump Suggests He Or Another Republican President Could Use Justice Department to Indict Opponents*, CBS NEWS (Nov. 10, 2023), <https://www.cbsnews.com/news/donald-trump-weaponization-justice-department-political-opponents/>.

<sup>9</sup> An archive of former President Trump's tweets is available at <https://www.presidency.ucsb.edu/>.

- *“A ‘SWEETHEART’ DEAL FOR HUNTER (AND JOE), AS THEY CONTINUE THEIR QUEST TO ‘GET’ TRUMP, JOE’S POLITICAL OPPONENT. WE ARE NOW A THIRD WORLD COUNTRY!”*
- *“The Hunter/Joe Biden settlement is a massive COVERUP & FULL SCALE ELECTION INTERFERENCE ‘SCAM’ THE LIKES OF WHICH HAS NEVER BEEN SEEN IN OUR COUNTRY BEFORE. A ‘TRAFFIC TICKET,’ & JOE IS ALL CLEANED UP & READY TO GO INTO THE 2024 PRESIDENTIAL ELECTION. . . .”*
- D. Trump Truth Social post on July 11, 2023: *“Weiss is a COWARD, a smaller version of Bill Barr, who never had the courage to do what everyone knows should have been done. He gave out a traffic ticket instead of a death sentence. Because of the two Democrat Senators in Delaware, they got to choose and/or approve him. Maybe the judge presiding will have the courage and intellect to break up this cesspool of crime. The collusion and corruption is beyond description. TWO TIERS OF JUSTICE!”*<sup>10</sup>

This call for Mr. Biden to receive “a death sentence” and other incendiary comments are just a few examples, as Mr. Trump has made other similar statements during his rallies and throughout his post-presidency. Accordingly, such statements by Mr. Trump while in office or since then necessitate, and provide ample justification for, this set of requests for communications relating to or concerning Mr. Biden, which are likely to be in the custody or possession of the DOJ.

As referenced in the above social media posts, there has also been a sustained, almost-nonstop public pressure campaign, led by Mr. Trump and his allies in Congress, to criticize DOJ’s handling of this case—specifically, the agreed-to plea deal between Mr. Weiss’s team and Mr. Biden, first made public on June 20, 2023. After Mr. Biden agreed to plead guilty to resolve two tax offenses and negotiated a diversion agreement with your Office on the firearm charge, Mr. Trump blasted the agreement as a “sweetheart deal,” a “traffic ticket,” and a “massive coverup.” House Oversight Chairman James Comer, who has made Mr. Biden a centerpiece of his committee’s investigations, slammed DOJ for giving Mr. Biden a “sweetheart plea deal” and called it “a slap on the wrist.”<sup>11</sup> Senator Rick Scott (R-Fla.) called it “a mockery of our legal system” and Senator Ron Johnson said it was “a light slap on the wrist.”<sup>12</sup>

Upon news that the parties’ agreement was not approved on July 26, Republican allies cheered and claimed responsibility, touting their role in “intervening” to “kill” the deal. House Ways and Means Chairman Jason Smith told Fox News that afternoon that “justice is being served,”<sup>13</sup> and later said, “a special counsel *only happened because congressional GOP exposed the two-tiered judicial system by shining light onto the investigation* into Hunter Biden’s alleged financial crimes & the political interference

<sup>10</sup> Ryan Bort, *Trump Blasts Prosecutor He Appointed for Not Giving Hunter Biden ‘Death Sentence’*, ROLLING STONE (July 11, 2023), <https://www.rollingstone.com/politics/politics-news/trump-suggests-hunter-biden-death-penalty-1234786435/>.

<sup>11</sup> Devan Cole, *Legal Experts Cast Doubt on GOP Claims of a ‘Sweetheart Deal’ In Hunter Biden Case*, CNN (June 21, 2023), <https://www.cnn.com/2023/06/21/politics/hunter-biden-sweetheart-deal-tax-charges/index.html>.

<sup>12</sup> Betsy Woodruff Swan, *In Talks with Prosecutors, Hunter Biden’s Lawyers Vowed to Put the President on the Stand*, POLITICO (Aug. 19, 2023), <https://www.politico.com/news/2023/08/19/hunter-biden-plea-deal-collapse-00111974>.

<sup>13</sup> *Jason Smith on Hunter Biden Plea Deal Collapse: Justice Is Being Served*, FOX NEWS (July 26, 2023), <https://www.foxnews.com/video/6331889313112>.



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that shielded both him & POTUS from scrutiny.”<sup>14</sup> While your Office has claimed to be immune from such outside pressures, you must admit that it is at least troubling when Members of Congress claim otherwise, and that they in fact caused your Office to reverse course and abandon its prior efforts to resolve this matter and to now seek more serious charges. No change in either the facts of this case or the law have occurred to warrant such a reversal. The only thing that appears to have changed is that these Republicans in Congress and other partisans have loudly criticized your Office’s prior efforts to resolve this matter.

Even after your Office reversed course and filed charges in Delaware, Republicans kept up their pressure campaign. The very same day that Mr. Biden was charged in this case, Chairman Comer stated: “Mountains of evidence reveals that Hunter Biden likely committed several felonies and Americans expect the Justice Department to apply the law equally. *Today’s charges are a very small start*, but unless U.S. Attorney Weiss investigates everyone involved in fraud schemes and influence peddling, *it will be clear President Biden’s DOJ is protecting Hunter Biden and the big guy.*”<sup>15</sup>

Accordingly, we make the above requests considering the sustained and unrelenting interest in and pressure to investigate and now charge Mr. Biden, which began during the prior administration.

\* \* \*

Defense counsel would appreciate your response to the above requests as soon as possible given the current schedule for filing pretrial motions. We will supplement these requests as we continue our preparation for trial. If you have any questions regarding these requests, please contact me. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Abbe David Lowell".

Abbe David Lowell

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<sup>14</sup> @RepJasonSmith, *X* (Aug. 11, 2023) (emphasis added), [twitter.com/RepJasonSmith/status/1690065476838105088](https://twitter.com/RepJasonSmith/status/1690065476838105088).

<sup>15</sup> Alexandra Hutzler, *Republicans Not Satisfied With Just Hunter Biden Gun Charges: ‘Very Small Start’*, ABC NEWS (Sept. 14, 2023) (emphasis added), <https://abcnews.go.com/Politics/republicans-satisfied-hunter-biden-gun-charges-small-start/story?id=103194671>.